

# **EXHIBIT B**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION  
Case No.: 1:17-cv-01909-SCJ**

**BRIA MADDOX**

**Plaintiff,**

**v.**

**CBE GROUP, INC.,**

**Defendant.**

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**DECLARATION OF TERRY DUANE JOHNSON**

On this day, November 20, 2017, I, TERRY DUANE JOHNSON declare under penalty of perjury, as provided for by the laws of the United States, 28 U.S.C. § 1746, that the following statements are true and correct:

1. My legal name is TERRY DUANE JOHNSON.
2. I am over the age of 18 and am otherwise competent to make this Declaration.
3. I am employed by CBE Companies, Inc. ("CBE"), as Enterprise Architect. The CBE Group, Inc. ("CBE Group"), is a subsidiary of CBE.
4. The information contained in this Declaration is based upon my personal knowledge gained through my employment with CBE, as well as my

review of relevant business records and the specific electronic information and data related to the account at issue in this litigation.<sup>1</sup>

5. CBE Group is a debt collection agency.<sup>2</sup>

6. Through my employment by CBE, I have gained extensive knowledge of the telephonic hardware and software systems utilized by CBE Group in its business practices.

7. I am also intimately familiar with the software and hardware systems utilized by CBE Group to document activity taken with respect to accounts referred to CBE Group for collection by creditors.

8. All calls placed to Plaintiff's phone number, 305-680-6589, by CBE Group were dialed solely by CBE Group's Manual Clicker Application ("MCA").

9. The MCA is a proprietary software/hardware system developed by an affiliate of CBE Group for the express purpose of ensuring compliance with the requirements of the Telephone Consumer Protection Act ("TCPA").

10. As part of my employment and education, I have gained extensive knowledge of various types of telephone systems.

11. The MCA does not use a random or sequential number generator and was designed to make it impossible for the equipment used to have the capacity to

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<sup>1</sup> All documents reviewed in preparation of this Declaration were made in the regular course of CBE Group's business and it was the regular course of CBE Group's business to make such records within a reasonable time of the transactions or occurrences reflected in the documents.

<sup>2</sup> This statement should not be construed to mean that CBE Group meets the definition of "debt collector" under the FDCPA with respect to this case or that the obligation at issue in this case was a "debt" as defined by the FDCPA.

store, produce or dial numbers using a random or sequential number generator as required to meet the definition of “automated telephone dialing system” under the TCPA.

12. The MCA was also designed to make it impossible for the system to dial predictively; it does not use predictive algorithms. The MCA does not make internal or automatic decisions regarding how many lines to dial nor does it automatically adjust call rates to match agents with calls based upon availability. The MCA is therefore not a “predictive dialer.”

13. Likewise, the MCA does not automatically determine when numbers are to be called. The MCA does not have this timing function.

14. No calls can be placed via the MCA without human intervention.

15. All calls made via the MCA require manual initiation for each and every phone number dialed.

16. CBE Group uses various sources to determine whether any telephone number related to an account is a cellphone.

17. When a number is identified as a cellphone number, it is segregated and thereafter called exclusively using the MCA.

18. In order for a number to be called using the MCA, the CBE Group employee using the MCA must manually initiate the call by using a computer component (*i.e.* the computer’s mouse or keyboard enter key) to physically “click.”

The employee's act of "clicking" is what initiates the call to an identified cell phone number.

19. The rate at which MCA agents are allowed to initiate calls in the MCA is also controlled by human decisions made by employees within CBE Group's Internal Command Center, which monitors and adjusts call pacing and line allocation accordingly, in a manual and non-predictive manner.

20. When a call is initiated by a CBE Group employee via the MCA, the call does not pass through a telephone system or dialing device that is an automatic telephone dialing system, predictive dialer, or that uses a random or sequential number generator.

21. When a call is initiated by a CBE Group employee using the MCA, the telephone system does not utilize lists of phone numbers that the equipment dials without human intervention and then assists in predicting when an agent is available to take the call.

22. CBE Group placed no calls to Plaintiff's phone number, 305-680-6589, using a prerecorded or artificial voice message.



Executed on this 20th day of November, 2017.

A handwritten signature in black ink, appearing to read 'T. Duane Johnson', written over a horizontal line.

Terry Duane Johnson